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Southern District of New York
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JACOB N. STEIN, individually and d/b/a
TEPdesign, Inc.

Defendant.

COMPLAINT

Docket No. 19 Civ. _____

Plaintiff the United States of America (the “United States”), by its attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, for its Complaint, alleges upon information and belief as follows:

NATURE OF ACTION

1. This is an action to recover money due and owing the United States by defendant Jacob N. Stein (“Defendant”) pursuant to a final order of the Commodity Futures Trading Commission (“CFTC”), an agency of the United States, as reported *In the Matter of CFTC v. Jacob N. Stein, individually and d/b/a TEPdesign, Inc.*, CFTC Docket No. 14-20.

JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355.
3. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b).

THE PARTIES

4. Plaintiff United States is a sovereign.
5. Defendant Jacob N. Stein is a natural person whose last known address is 5 E. Ridge Road, Hankins, New York 12741. Defendant is currently incarcerated in Greene Correctional Facility, 165 Plank Road, P.O. Box 8, Coxsackie, New York 12051-0008.

FACTUAL ALLEGATIONS

6. On August 11, 2014, CFTC issued an Order, *In the Matter of CFTC v. Jacob N. Stein, individually and d/b/a TEPdesign, Inc.*, instituting proceedings pursuant to section 6(c) and 6(d) of the Commodity Exchange Act, 7 U.S.C. §§ 6c and 6d, in which it made findings and imposed remedial sanctions on Defendant (the “Order”). The Order was issued following Defendant’s offer of settlement. The Order provides, *inter alia*, that defendant pay (a) restitution in the amount of \$244,400.00 to a CFTC-appointed monitor within thirty days; (b) a civil monetary penalty of \$100,000.00 to the CFTC within thirty days. The Order also stated that failure to pay the amounts owed would result in post-judgment interest charges. A true and correct copy of the CFTC Order is attached hereto as ***Exhibit A*** and incorporated herein.

7. By letter dated September 15, 2014, the National Futures Association (“NFA”), the monitor appointed under the Order and responsible for the collection of Defendant’s restitution payment, notified Defendant that, to date, he had not paid the \$244,400.00 restitution owed under the Order. The letter further advised Defendant that if his payment was not received by the monitor

by September 29, 2014, the matter would be referred to the CFTC for further action. A true and correct copy of the September 15, 2014 letter is attached as ***Exhibit B***.

8. By letter dated October 2, 2014, Daniel A. Driscoll of NFA advised Patrick Daly of the CFTC that notwithstanding several attempts by NFA to collect, Defendant had failed to pay the restitution owed under the Order. NFA's letter further advised Defendant that it was referring the matter back to the CFTC for action to seek collection. A true and correct copy of the October 2, 2014 letter is attached as ***Exhibit C***.

9. On or about October 10, 2014, the CFTC sent Defendant a Notice of Claim for Monetary Sanctions ("Notice"). The Notice advised Defendant that he was to pay immediately (a) \$100,015.29 in a civil monetary penalty (consisting of \$100,000 in principal plus post-judgment interest as of October 8, 2014, of \$15.29); and (b) \$244,437.34 in restitution (consisting of \$100,000 in principal plus post-judgment interest as of October 8, 2014, of \$15.29). Defendant was further advised that interest on his restitution and civil monetary penalty was set at 0.12 percent, and would be compounded annually until his debt was paid in full, as provided by 28 U.S.C. 1961. A true and correct copy of the October 10, 2014 Notice is attached as ***Exhibit D***.

10. On or about December 20, 2016, Defendant sent a letter to NFA affirming that he had not paid the restitution or civil monetary penalty imposed by the CFTC. In his letter, Defendant explained that his failure to pay his restitution and the monetary penalty was due to his incarceration as a result of charges brought by New York State. Defendant further stated that "Upon release from prison, I fully intend to comply... and pay all the funds with interest as rapidly as possible." A true and correct copy of Defendant's December 20, 2016 letter is attached as ***Exhibit E***.

11. This matter was referred to the United States Attorney's Office for the Southern District of New York (the "Office") to seek a judgment for Defendant's unpaid obligation. On July 17, 2019, this Office sent a letter to Defendant informing him we would file suit unless he satisfied his restitution and monetary penalty obligations by July 31, 2019. Defendant has not satisfied those obligations.

12. Defendant is liable for civil penalties pursuant to 7 U.S.C. § 9a in the amount of \$100,529.60, and an additional \$239,115.26 in restitution pursuant to the CFTC's August 11, 2014 Order. Despite due demand, Defendant has failed to pay the amount demanded. A certificate of indebtedness from the CFTC is attached as *Exhibit F* and incorporated herein.

WHEREFORE, Plaintiff the United States demands judgment against Defendant in the amount of \$339,644.86 as of May 9, 2019, with interest accruing thereafter at the rate of 0.12% per annum, and for such other and further relief as the Court may deem proper.

Date: August 2, 2019
New York, New York

Respectfully submitted,

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